

JS 44 (Rev. 12/07)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**  
Wall Wireless, LLC**DEFENDANTS**  
Nintendo Co., Ltd. et al(b) County of Residence of First Listed Plaintiff Collin  
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.(c) Attorney's (Firm Name, Address, and Telephone Number)  
Fulbright & Jaworski, LLP; 2200 Ross Ave; Suite 2800, Dallas TX  
75201; (214) 855-8000

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1338(a) and 28 U.S.C. 1331

Brief description of cause:

Patent Infringement**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23**DEMAND \$**

CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

SIGNATURE OF ATTORNEY OF RECORD

February 13, 2008Bar L. Sur

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RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

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2. Defendant Nintendo Company, Ltd. is a foreign corporation organized and existing under the laws of Japan, with a principal place of business at 11-1, Kamitoba Hokotate-cho, Minami-ku, Kyoto, 601-8501, Japan. Service upon Nintendo Co. Ltd. is proper through the means authorized by the Hague Convention. In accordance with Articles 3 and 5 of the Hague Convention, a properly-formatted request, summons, and complaint can be forwarded to the Central Authority of Japan at The Minister of Foreign Affairs, 2-2-1 Kasumigaseki, Chiyoda-ku, Tokyo 100-8919, Japan. Pursuant to Article 5a of the Hague Convention, Nintendo Company Ltd. can be served by the Central Authority of Japan in the method prescribed by the internal laws of Japan for the service of documents and domestic actions upon persons who are within its territory.

3. Defendant Nintendo of America, Inc. is a corporation organized and existing under the laws of the State of Washington, with its principal place of business at 4820 150th Avenue N.E., Redmond, Washington 98052. Nintendo of America, Inc. may be served with process by serving its registered agent, CT Corporation System, 350 North St. Paul Street, Dallas, Texas 75201.

4. Defendant Sony Corporation is a foreign corporation organized and existing under the laws of Japan, with its principal place of business at 7-1, Konan 1-Chome, Minato-ku, Tokyo 108-0075, Japan. Service upon Sony Corporation is proper through the means authorized by the Hague Convention. In accordance with Articles 3 and 5 of the Hague Convention, a properly-formatted request, summons, and complaint can be forwarded to the Central Authority of Japan at The Minister of Foreign Affairs, 2-2-1 Kasumigaseki, Chiyoda-ku, Tokyo 100, Japan. Pursuant to Article 5a of the Hague Convention, Sony Corporation can be served by the Central

Authority of Japan in the method prescribed by the internal laws of Japan for the service of documents and domestic actions upon persons who are within its territory.

5. Defendant Sony Corporation of America is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 550 Madison Avenue, New York, New York 10022. Sony Corporation of America may be served with process by serving its registered agent, The Corporation Trust Company at Corporation Trust Center, 1209 Orange, Street, Wilmington, Delaware 19801.

6. Defendant Sony Computer Entertainment America Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 919 East Hillsdale Boulevard, Second Floor, Legal Department, Foster City, California 94404. Sony Computer Entertainment America Inc. may be served with process by serving its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

7. Defendant Sony Online Entertainment LLC is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business at 8928 Terman Court, San Diego, California 92121. Sony Online Entertainment LLC may be served with process by serving its registered agent, The Prentice-Hall Corporation System, Inc., at 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

8. Defendant Nokia, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 6000 Connection Drive, Irving, Texas 75039. Nokia Inc. may be served with process by serving its registered agent, National Registered Agents, Inc., at 160 Greentree Drive, Suite 101, Dover, Delaware 19904.

9. Defendant Nokia Corporation is a foreign corporation organized and existing under the laws of Finland with its principal place of business at Keilalahdentie 4, P.O. Box 226, FI-00045 NOKIA GROUP, Espoo, Finland. Service upon Nokia Corporation is proper through the means authorized by the Hague Convention. In accordance with Articles 3 and 5 of the Hague Convention, a properly-formatted request, summons, and complaint can be forwarded to the Central Authority of Finland at the Ministry of Justice, P.O. Box 25, FIN-00023 Government, Finland. Pursuant to Article 5a of the Hague Convention, Nokia Corporation can be served by the Central Authority of Finland in the method prescribed by the internal laws of Finland for the service of documents and domestic actions upon persons who are within its territory.

#### **JURISDICTION AND VENUE**

10. This Court has subject matter jurisdiction under 28 U.S.C. § 1338(a) and 28 U.S.C. § 1331. This action arises under the patent laws of the United States, Title 35 of the United States Code.

11. Each Defendant has transacted business in this district and has committed and/or induced and/or contributed to acts of patent infringement in this district. Venue is proper in this district over Defendants under 28 U.S.C. §§ 1391(c) and 1400(b). Venue is also proper in this district over Defendants Nintendo Company, Ltd., Sony Corporation, and Nokia Corporation under 28 U.S.C. § 1391(d).

12. Defendants are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to their substantial business in this forum, including: (a) a portion of the infringement alleged herein; and (b)

regularly doing or soliciting business, engaging in other persistent course of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this district.

### **PATENT INFRINGEMENT**

13. On May 15, 2001, Corbett Wall (“Mr. Wall”) filed Taiwanese Patent Application No. 90/111564 (“Taiwanese Patent Application”).

14. On September 25, 2001, Mr. Wall filed U.S. Patent Application No. 09/963,348, which timely and properly claimed the benefit of the priority date of the Taiwanese Patent Application.

15. On October 28, 2003, U.S. Patent No. 6,640,086 (the “’086 Patent”), entitled “Method and Apparatus for Creating and Distributing Real-Time Interactive Media Content Through Wireless Communication Networks and the Internet” naming Corbett Wall as the inventor, was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ‘086 patent, which issued on October 28, 2003, is attached as Exhibit A.

16. Plaintiff Wall Wireless is the owner by assignment of the ‘086 patent.

17. At least as early as October 2008, each Defendant received actual notice of the ‘086 patent.

18. Defendants have failed to take a license under the ‘086 Patent.

19. Nintendo has been and now is directly infringing, and/or inducing infringement by others, and/or contributing to the infringement by others of at least Claims 1 and 26 the ‘086 patent in the State of Texas, in this district, and elsewhere in the United States. Nintendo’s acts

of infringement include, among other things, manufacturing, using, importing, selling, and/or offering for sale handheld WiFi devices and multiplayer real-time games, including without limitation, the Nintendo DS, Nintendo DS Lite, and Mario Kart available and/or played through [www.nintendowifi.com](http://www.nintendowifi.com) and <http://www.nintendoworldstore.com>. Nintendo is thus liable for infringement of the '086 patent pursuant to 35 U.S.C. § 271.

20. Sony has been and now is directly infringing, and/or inducing infringement by others, and/or contributing to the infringement by others of at least Claims 1 and 26 of the '086 patent in the State of Texas, in this district, and elsewhere in the United States. Sony's acts of infringement include, among other things, manufacturing, using, importing, selling and/or offering for sale handheld WiFi devices and multiplayer real-time games, including without limitation, the Sony PlayStation® Portable and Wipeout® Pulse available and/or played through [www.us.playstation.com](http://www.us.playstation.com). Sony is thus liable for infringement of the '086 patent pursuant to 35 U.S.C. § 271.

21. Nokia has been and now is directly infringing, and/or inducing infringement by others, and/or contributing to the infringement by others of at least Claims 1 and 26 of the '086 patent in the State of Texas, in this district, and elsewhere in the United States. Nokia's acts of infringement include, among other things, manufacturing, using, importing, selling and/or offering for sale handheld WiFi devices and multiplayer real-time games, including without limitation, the N81, N82, N93, N95, and Reset Generation available and/or played through <http://www.n-gage.com> and <http://www.nokiausa.com>. Nokia is thus liable for infringement of the '086 patent pursuant to 35 U.S.C. § 271.

22. As a result of Defendants' infringement of the '086 patent, Wall Wireless has suffered monetary damages that are compensable under 35 U.S.C. § 284 by no less than a reasonable royalty, and it will continue to suffer such monetary damages in the future unless Defendants' infringing activities are permanently enjoined by this Court.

23. Unless a permanent injunction is issued enjoining Defendants from infringing the '086 patent, Wall Wireless will be irreparably harmed.

24. This case presents exceptional circumstances within the meaning of 35 U.S.C. § 285, and Wall Wireless is thus entitled to an award of its reasonable attorneys' fees.

#### **PRAYER FOR RELIEF**

WHEREFORE, Wall Wireless requests that the Court enter:

(a) A judgment that Defendants have directly, and/or by way of inducing infringement by others, and/or by contributing to the infringement by others, infringed the '086 patent, and that such infringement is wilful;

(b) A permanent injunction enjoining Defendants and their officers, directors, agents, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert or privity with them from infringing the '086 patent;

(c) A judgement and order requiring Defendants to pay Wall Wireless its damages, costs, expenses, and pre-judgment and post-judgment interest for Defendants' infringement of the '086 patent as provided under 35 U.S.C. § 284;

(d) A judgment and order that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding Wall Wireless its reasonable attorneys' fees; and



- (f) Any and all other relief to which the Court may deem Wall Wireless entitled.

**DEMAND FOR JURY TRIAL**

25. Wall Wireless, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: February 13<sup>th</sup>, 2009

Respectfully submitted,

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